

# OFFICE OF THE ATTORNEY GENERAL

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Sheriffs - Counties -  
Employees, Employers, Employ-  
ment - Jails

The Commission has the authority to discipline its employees, the Commission may not place law enforcement personnel on a part-time basis, the Commission is required to maintain the county jail on a full-time basis, claims against the county are to be paid consistent with Section 11-12-15.

Dear Sheriff Flannigan:

The Attorney General is in receipt of your recent request for an opinion in which you pose four questions. Those questions are:

1. Does the Commission have the authority to overrule the Sheriff's decision and pay an employee when he has suspended or disciplined that employee?

2. Does the Commission have the authority to place employees of the Sheriff's Office on a part-time basis without notifying the Sheriff?

3. Will the law permit the jail to operate on a part-time basis?

4. What procedure can an employee who worked full-time and was only paid for half-time work utilize in order to collect the money owed?

The answer to question number one is difficult in view of the fact that your request for an opinion does not specify what type of employee is in question or whether Greene County has a civil service system that accords rights to employees. Assuming that the employee in question is a non-law enforcement employee, it is the opinion of the Attorney General that the County Commission is the appointing authority and as the appointing authority, the County Commission is charged with the final responsibility of effectively and efficiently directing its employees. The County Commission and the Sheriff should cooperate in matters concerning the discipline of an employee working in the county sheriff's office.

It is the opinion of the Attorney General that the answer to question number two is in the negative. In those instances where the County Commission notifies the Sheriff that the amount of funds allocated to the Sheriff's office are not available it is then up to the Sheriff to determine how he will allocate the available funds. It is not up to the Commission's discretion to determine who will or will not be paid within the Sheriff's office but rather it is within the Sheriff's discretion as to how he will operate his office and who will be paid based upon the available funds. A second point needs to be made concerning employees who have been provided for by statute. In recent opinions the Attorney General's office has determined that where employees are provided for by statute the County Commission may not reduce the number of hours to be worked by those employees below that which makes them full-time. See Opinion addressed to Glenn M. Smitherman, June 20, 1983, and Opinion addressed to E. O. Townsend, June 17, 1985. While the County Commission is charged with the final responsibility of providing funds to the Sheriff's office it is incumbent upon both the Sheriff and the County Commission to cooperate in such a manner that will result in the efficient operation of both the county governing body and the Sheriff's

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office for the benefit of the people of Greene County.

The third question involves the county jail. Section 14-6-1, Code of Alabama 1975, provides that the Sheriff has the legal custody and charge of the jail in his county and may appoint a jailer. The County Commission is charged in Section 11-14-13, Code of Alabama 1975, with the construction of a jail of sufficient size and strength to contain and keep securely the prisoners that may be confined therein. It should also be noted that Section 11-14-14 grants to the Commission broad powers to levy a county tax in order to provide for the construction or repair of the county jail. The importance of the Commission's duty to maintain the county jail is reflected by Sections 11-14-20 and 11-12-15 which give absolute priority to the use of county funds to the cost of maintaining the county jail. Therefore, it is the opinion of the Attorney General that should the Sheriff determine that the full-time operation of the county jail is necessary, the county is required to spend the necessary funds to see that the jail operates on a full-time basis.

Question four involves an employee who has worked full time but has been only paid for half time. Section 11-12-15 provides for the priority of claims against the county. The employee should be informed of this section and may take appropriate action to have his claim submitted to the Commission.

We hope we have provided you with answers to your questions. If we may provide you with any further information, please feel free to contact us at any time.

Sincerely yours,

CHARLES A. GRADDICK  
Attorney General  
By:



RICHARD N. MEADOWS  
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